

MARC R. GREENBERG, CASB No. 123115
 JOSEPH A. WALSH II, CASB No. 143694
 JOHN COX, CASB No. 197687
 KEESAL, YOUNG & LOGAN
 A Professional Corporation
 400 Oceangate, P.O. Box 1730
 Long Beach, California 90801-1730
 Telephone: (562) 436-2000
 Facsimile: (562) 436-7416

Attorneys for Defendant
 FLEET MANAGEMENT LTD.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,)	Case No. CR 08-0160-1 SI-2
Plaintiff(s),)	
)	DEFENDANT FLEET MANAGEMENT
vs.)	LTD.'S RESPONSE TO THE
)	GOVERNMENT'S MOTION FOR
JOHN J. COTA, et al.,)	RELIEF FROM THE COURT'S
Defendant(s).)	DISCOVERY ORDER OF AUGUST 7,
)	2008
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The Government has requested that the Court move the Government's expert discovery deadline from September 2, 2008 to September 8, 2008. The Government's discovery obligations in this case were triggered when it chose to file criminal charges against Captain Cota on March 17, 2008. Some five months later, on August 7, 2008, the Court stepped in and set the following deadlines for the Government to provide Fleet and Cota the discovery materials which, for some unknown reason, had so far not been provided to Defendant Cota:

- a. written and electronic discovery – August 18, 2008;
- b. expert disclosure – September 2, 2008.

After the Court's order was issued the Government provided Fleet with over 100 computer disks of discovery materials. The Government did not provide an index of the materials and did not produce them in a searchable format. As such, Fleet is uncertain as to what has, and what has not, been produced so far.

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1 In addition, the Government has not responded to either of Fleet's two requests for discovery so Fleet
2 cannot know which categories of discovery it has been provided and which categories of requests need to
3 be addressed with the court. Much of the information regarding Captain Cota's medical conditions and
4 prescription drug use has yet to be produced. The Government withheld these documents until they could
5 get agreement on a protective order.

6 On the day of the deadline for its expert disclosure, the Government asked the Court for additional
7 time to make its disclosure. While Fleet does not wish to rush the Government into making a less than
8 complete disclosure, the Court should appreciate that the lack of complete written discovery coupled with
9 the delayed expert disclosure will prevent Fleet from presenting a cogent briefing on the status of trial
10 preparation, which is due September 12th, for a hearing on September 18th. As such, Fleet requests that the
11 Government respond in writing to Fleet's discovery requests forthwith and that the Court delay the
12 hearing currently set for September 18th until September 28th, and move the filing deadline of September
13 12th, to September 19th.

14 The Court should also be aware that Fleet has filed a motion for leave to enter a plea of *nolo*
15 *contendere* which is to be heard on September 22, 2008. Should that motion be granted Fleet would not
16 need to attend the Rule 15 depositions and therefore the depositions could go forward without Fleet in
17 short order and then the material witnesses could be released to return home. This is additional
18 justification for moving the September 18th hearing date to September 28th.

19 Respectfully submitted,

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21 DATED: September 4, 2008

21 /s/ John Cox
22 MARC R. GREENBERG
23 JOSEPH A. WALSH II
24 JOHN COX
25 KEESAL, YOUNG & LOGAN
26 Attorneys for Defendant
27 FLEET MANAGEMENT LTD
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